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EXAMINER

WOODS, ERIC V

ART UNIT	PAPER NUMBER
2628	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,163

Applicant(s)

VAN DER ZIJPP, ROBERT

Examiner

Eric Woods

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-17 have been considered but are not found to be persuasive.

It is noted that applicant's amendment consists entirely of changing the order of steps (c) and (d), and then shifting the limitation in step (b) into step (d).

Firstly, it is noted that changing the order of steps in a process, when the change in order does not result in any difference in the final result and/or any improvement in efficacy or efficiency of the process is entirely a matter of design choice. Applicant has not shown or demonstrated any criticality to the order of these particular steps, where the reference inherently and intrinsically still performs these process steps.

Examiner further contends that the selected pattern is the same as the template, because they have the precise same form. Therefore that is not a patentable limitation.

See below. The changed limitations are addressed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-8, and 11-12 are anticipated by Carter (US 6,091,482).

As to claim 1,

A computer implemented process for the creation of a merged image comprising the steps of:

a. Preparing at least two base images in digital format; (Carter Abstract, Figure 5, 3:30-53, 5:50-60, Figure 5 **only showing that images are divided into a plurality of cells (rows and columns, a.k.a. pixels)**)

b. Selecting a pattern wherein said pattern comprises a multiplicity of cells, each cell having n regions wherein n is the number of prepared base images; (Figure 6, implemented in Figure 4B, 6:46-58, 7:62-65 ... 'predetermined, **desired** sequence', illustrates the recited **cell**. The pattern per se is shown in Figure 8 – Figure 7 is merely illustrative of how the recited images are divided into blocks. Figure 8 **clearly** illustrates how only a portion of each image is combined, and the like. Therefore, examiner submits that the selection of an individual cell, as in Figure 6, automatically forms the pattern applied to multiple cells, as in Figure 8, and the like. Finally, the flowchart in Figure 2 has step 214 where interlacing occurs – the specification discloses that "...**selected slices or segments from each image assembled together in a predetermined, desired sequence...**", which clearly shows that the user would select the desired pattern (7:63-8:5))

c. Applying the pattern to each base image to divide each base image into a plurality of cells each having n regions; (Carter Figure 7 illustrates that the images are divided and made into sets that the pattern would be applied to; Figure 8 shows that the template / pattern of Figure 6 is applied to each base image (Figure 5), where each image is

already divided into columns (Figure 7), where as noted the 'cells' are shown in Figure 7 and follow the pattern in Figure 6 (6:43-7:10))

d. Providing a merged image template wherein said template comprises a multiplicity of cells, each cell having n regions wherein n is the number of prepared base images and wherein each region of a cell is assigned to a different prepared base image and the template is divided in the same pattern applied to the base image; (This step is identical to the one above, where the template is that shown in Figure 6 and implemented in Figure 8; the template shown clearly divides each image into various image sections (such a template would be defined in Figure 7 particularly, in the regions listed as 20A and 20B). Examiner submits that the overall 'pattern' or 'template' has the form in Figure 8 and that the overall form would be that as shown in Figure 9)

e. Selecting a mergable portion of each respective base image wherein the mergable portion corresponds to each region of each cell assigned to the respective base image; (Carter Figure 6 teaches of applying the sequence shown in Figure 6 to each underlying base image, such as shown in Figure 8, 7:1-45 – specifically, as in Figure 7 the images are divided into blocks, where this would constitute 'selecting a mergable portion of the base image' because clearly a strip from each image is combined as in Figure 7, and then the pattern is applied as in Figure 8 to determine the recited 'mergable portions')

f. Consecutively merging of only the selected mergable portions of each respective base image into the merged image template in a non-overlapping manner to provide a single layer merged image. (Carter clearly teaches that a final merged image is generated in Figure 9. Clearly, since the base images are numbered in a left to right manner, the

merging process will be consecutive, since the final image is composed from left to right in numbering, and the first image is on the left. This is an inherent property of the merging process shown in Carter. See 7:1-8:45)(Note that Carter does **not** merge cells in an over-lapping manner to anticipate a potential limitation previously brought up during the examiner's amendment discussion. It is further noted that the result is shown as in Figure 9 and **specifically Figure 4B**, where the specified mergable portions are combined in a non-overlapping manner, etc).

Carter teaches the limitations of the above claims as explained therein. As to claim 2, clearly Carter teaches that the number of regions of each cell of respective base image is clearly varied based on the number of base images to be merged, as in 7:25-43 and 5:35-40; since the number of cells and number of items per cell for the merge pattern or template are varied based both the number of base images as specified therein.

As to claim 4, Carter clearly teaches using a computer to perform the steps of the process (Figures 1-2, 2:30-3:40).

As to claim 5, Carter clearly applies a grid, as shown in Figures 5-8.

As to claim 6, Carter clearly divides each base image into pixels, as shown in Figures 5-8 in a digital manner. Next, the base images are clearly divided into cells using a grid pattern, as shown in Figure 7, with the segmentation pattern shown in Figure 6 used to generate the multiplicity of cells and regions; see Figure 7.

As to claim 7, clearly Carter in 5:50-6:20 teaches that the dimensions of the base image or the dimensions of the merged image that is required by a user determine the dimensions of the grid.

As to claim 8, clearly Carter in 7:24-43 and 5:35-40 teaches that the dimensions of the cells are varied based on the number of base images.

As to claim 11, clearly Carter teaches in Figures 5-9, particularly Figures 7-9, that the mergable portions of each base image are placed in a predetermined spacing in relation to each other – namely, the grid template illustrated in Figures 6, 7, and 9.

As to claim 12, Carter teaches that a computer merges the images to form a final, composite image. Clearly, a final composite image that consists of all the various base image portions must be a single layer, since it is sent to the printer as such 8:5-15, 7:10-25 ('final composite image') as a single layer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al (USPN 6091482).

As to claim 3, Carter clearly shows in Figures 6 and 8 that the merging template applied uses three cells from some of the base images, which is for an example using four base images (as shown in Figure 5), where n would be four and n minus one would be three. This is further a matter of design choice, which Carter clearly teaches in 7:24-43, 5:35-40, the shown Figures, 8:54-9:15. Carter clearly shows in Figures 5-8 that the user as appropriate for the application in question can choose the number of regions per cell. Certain regions in the sample cell have $n-1$ portions of the cell and the like. Applicant has further not presented any evidence of criticality of the number of cells per base image as recited in the dependent claim.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Carter to utilize $n-1$ cells as recited above for the reasons listed above, and because if the desired composite image must have the same dimensions as the base images, some portion of each base image must be discarded, which is the principle used in the art (Carter) and relied upon by prior art of record (Delhi, Atkinson).

Claims 9-10 are rejected under 35 USC 103(a) as unpatentable over Carter as applied to claim 6 above, further in view of Delhi (US 5,638,158).

As to claim 9,

A process as claimed according to claim 6, wherein the cells and regions have a particular shape chosen to achieve or maintain high tolerance with regard to pixel or cells and region spacing.

Reference Carter does not expressly teach this specific limitation. Reference Delhi teaches (9:26-32) that high tolerance with regards to pixel spacing is important. Delhi further teaches that streaks are to be avoided in creating these mosaic images (9:18-29), and various shapes are shown in Fig. 1 where spacing is clearly important. Also, it is a fundamental of the art and geometry that the use of square or rectangular pixels maximizes the spacing (e.g. leaves no empty space), which is usually the goal of a display (to get maximum resolution on it). Further, cells are taught to have different shapes by Delhi (10:1-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the digital image displays of Carter with the differently shaped cells and high space tolerance of Delhi, as Carter uses mosaiced base images with no overlap. One of ordinary skill in the art at the time the invention was made would look to the Delhi reference since Delhi is concerned with combining base images into a composite image, and motivation for such a combination can be found as above, and in Delhi 7:4-20, where it is taught that the **shape** of each particular region or aperture may be configured by the user, which would clearly allow for the user to configure the shapes of the various portions or strips of the lenticular mask of Carter – this would be both advisable, since Carter also suggests it (7:24-43) because the lens spacing could be different, and the lenses could be of non-vertical orientation (e.g. diagonally oriented lenses, which are well known in the art, see

As to claim 10,

A process as claimed according to claim 6 wherein one or more of the base images are divided into differently shaped cells and regions.

Delhi explicitly teaches this limitation, teaching hexagonal, elliptical, and other shapes of pixels / regions (10:1-25). It would be trivially obvious to modify the digital displays of Silvers to use the differently shaped pixels / interleaving patterns of Delhi. The motivation and combination of claim 10 are adopted herein by reference without further comment being required.

Claim 13 is rejected under 35 U.S.C. 103(a) as unpatentable over Delhi in view of US 6,088,018 ('DeLeeuw I').

As to claim 13,

A process as claimed according to claim 12 wherein at least one additional layer is added to the single layer image, the entire additional layer being digitally transparent except for advertising material such as trademarks and other digital information, for example Vernier scales, calibration scales, or image borders.

Reference Carter teaches the use of a grid, which would prima facie be transparent except for the grid lines dividing the cells for the light sources as specified therein.

Reference DeLeeuw I clearly teaches the use of digitally transparent layers, as shown in Fig. 2, where it is disclosed that a clock and stock ticker are overlaid onto the normal screen, but in a transparent fashion (the stock ticker and clock could obviously

be advertising)(4:15-35, transparent layer). Reference Carter clearly teaches use of lenticular images for advertising and similar functionality (1:5-2:20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the transparent digital layers of DeLeeuw I with the mosaic techniques of Delhi, as DeLeeuw uses transparent layers and digital processing (*prima facie* digitally transparent) techniques, and with such techniques and the varying interleaving patterns allowed, it would be obvious to use advertising for such a technique. Motivation for combination with the other references is found in the fact that overlaying additional information allows more data to be presented to the user simultaneously (note, for example, the clock and other details in DeLeeuw, and the image of the user shown on the screen, which clearly would allow the user to see his own representation during a video-conference or the like, as discussed in the reference as above. Therefore, such a modification would have been obvious to one of ordinary skill in the art at the time the invention was made. Further, DeLeeuw is only relied upon for that one particular detail, and thus arguments that such a combination would destroy the function of one reference are not valid, since all references – namely Carter and DeLeeuw – are software and software can be made of modules that have arbitrary functionality, so it would be obvious to take only the module performing that function and move it to the combination as set forth above.

Claim 14 is rejected under 35 U.S.C. 103(a) as unpatentable over Carter as applied to claim 1 above and further in view of Yokomizo et al (US PGPub 2002/0067500 A1)('Yokomizo') and Morris (US PGPub 2003/0200268 A1)('Morris').

As to claim 14,

A computer network based process comprising the steps of:

- A. At least one end user supplying at least two base images to an image interrogation means; (Yokomizo 0014-0015 and 0048; Morris 0004-0008 and 0010-0011)
- B. The image interrogation means checking the base images for suitability and size; (Yokomizo 0030; Silvers teaches checking the source images and segmenting them as set forth in various earlier claims.)
- C. Implementing the computer implemented process according to claim 1; and (clearly the rejection to claim 1 sets this limitation forth adequately, and that rejection is herein incorporated by reference in its entirety)
- D. Forwarding the merged image to the end user. (Yokomizo Fig. 1, which clearly illustrates that images are processed on the remote server representing the dealer's head office, e.g. element 9. See also Morris 0018-0021)

The parent references (from claim 1) do not expressly teach these limitations. The system of Yokomizo involves having the images from digital photographs stored on a remote server, and the user downloads a small version of the high-resolution image, performs operations on it, and sends the results back to the server, where the server actually performs the desired operations (clips, cuts, rotations, scaling, zooming, image

extraction, matte and color correction, sharpening, red eye processing, etc. [0030]) on the high-resolution version. Reference Morris provides a means for users to store their images remotely on a server and share them with other people, including emailing them. The system of Yokomizo [0048] can also provide files after the image processing done remotely [0050] by CD, floppy, etc., and could just as easily be emailed out as the system of Morris does. The only constraint on the Yokomizo system is bandwidth, so with high bandwidth available (e.g. cable modem, DSL, etc.) using the remote server for near real-time image processing applications becomes feasible. Using the technologies of Morris would allow the results to be sent back to the user via email or a website and allow the user to share their work with others. Since the high-resolution images are / would be processed remotely, obviously they would be scanned (Yokomizo) and validated beforehand, but it would be an obvious modification if sufficient bandwidth were available to do the image validation on the remote server upon upload using either the logic behind why it would be done in the first place at scan time of Yokomizo.

Reference Carter teaches the use of processed mosaic images in advertising. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the mosaics and overlays of Carter with the image processing systems of Morris and Yokomizo, since after mosaic images were rendered, they could be sent back to the end user for review, which would happen using the photo-sharing technology of Morris or email, where allowing the user to verify the acceptability of the finished product before final printing would be sufficient benefit to justify this combination.

Claims 15-16 are rejected under 35 U.S.C. 103(a) as unpatentable over Carter as applied to claim 1, in further view of Yokomizo and Morris as applied to claim 14, and further in view of Kimura et al (US PGPub 2003/0025933 A1)('Kimura').

As to claim 15,

A computer network based process as claimed according to claim 14 wherein the base images are forwarded to an interrogation means which then forwards the base images to a third party for the application of the process for the creation of the merged digital image.

References Carter and Morris do not explicitly teach this limitation. Reference Yokomizo implicitly teaches this limitation, where the user brings their photographs to the dealer branch shops (Fig. 1) and the dealer then scans them and sends them to the dealer head shop. Obviously, such dealer shops could be franchises that were independently owned, and the dealer head shop would be an effective third party, and users could upload pictures to the dealer shops rather than physically bringing them in.

Reference Kimura explicitly teaches this limitation, wherein in 0019-0021 and Fig. 4 Kimura teaches that users can observe an image that they want, download a thumbnail, place an order for said image (taken from, for example, a sporting event by a TV station or professional photographer), pay for said image, and then send it to a "photo finishing" location where it will be processed as they desire (e.g. zoomed in, blown up, rotated, scaled, cropped, etc.) and the final product sent to them (obviously, it could be downloaded [0089] or sent to them via mail or email (see technology of Morris)).

This fulfills the recited limitation, where the interrogation means, etc., are the combined servers of Morris and Yokomizo as discussed in the rejection to claim 14, and thusly the images would be sent to the third party (the photo finisher) to perform the processing of Carter as recited in the above claim.

Reference Carter teaches the use of processed lenticular images in advertising. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the images of Carter with the image processing systems of Morris and Yokomizo, since if a public video terminal were equipped with the software as above as taught in claim 1, since mosaic images that were rendered and then sent back to the end user for review, which would happen using the photo-sharing technology of Morris or email, and further the use of the technology of Kimura would allow an advertiser or user to download a picture of a famous event or person (e.g. an athlete), add that image to an advertisement or simply a public display (e.g. a lenticular image) after the end results of the processing operations performed by a third party were complete and the image was returned via the technology of Morris or Yokomizo.

As to claim 16,

A computer network based process as claimed according to claim 14 wherein the third party is able to control the quality of the merged images produced.

References Carter, Morris, and Yokomizo do not explicitly teach this limitation. Reference Kimura teaches that the third party performs image enhancement or resolution conversion [0032], which *prima facie* meets the recited limitations of the above claim. The technology would allow for the systems of the above four references

to be used more efficiently and allow the user to have the desired image processed in different ways to achieve a more aesthetically pleasing end result. The motivation and combination of claim 15 is hereby incorporated via reference without further comment.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as unpatentable over Carter, Morris, Yokomizo, and Kimura as applied to claim 16 above, and further in view of Ginter et al (US PGPub 2004/0054630 A1)('Ginter').

As to claim 17,
A computer network based process as claimed according to claim 15, wherein the third party is a licensor of the process for the creation of the merged digital image and selectively control access and use of the process through license agreements with at least one licensee.

References Carter, Morris, and Yokomizo do not explicitly teach this limitation. Reference Kimura implicitly teaches this limitation, in that the third party controls access to the process, but does not teach intellectual property specifically licensed as a process (e.g. the images themselves are controlled, and the higher resolution versions). Reference Ginter teaches licensing of intellectual property with licensees (see, for example, 0010 and 0023), where intellectual property is defined to include software (0007) that could execute the processes of Carter, and that license agreements control access to content and functionality (0015-0026, various types of entities that would subscribe to such functionality, how it can be applied to almost any circumstance, etc.) In 0630 Ginter discloses the specific use of DRM / VRE software to control the actions of a licensee, including enforcing audit procedures required for a licensee, etc. Clearly,

the process of Ginter could be applied to any kind of information services provided over networks, etc, as in the combination of the systems of Morris and Yokomizo as covered in the rejections to claims 14 and 16, and the business model would be obvious, as this is taught by Ginter, and is only an obvious extension of what was rejected under claim 16 above, which rejection is hereby incorporated by reference in its entirety. Finally, Ginter clearly establishes that users pay royalties / license payments for use of content because of the VRE software – e.g. 0200 and 1821.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the processes of Delhi and DeLeeuw with the systems of Morris and Yokomizo for delivery and transmission purposes, along with the content management structures and business methods of Ginter and Kimura (the motivation and combination from claim 16 is hereby incorporated by reference), as the addition of the electronic rights protection and management as well as the business models of Ginter to those of Kimura would enable the third party to control the use and access to such material with the protective attributes of the VRE software, which would enhance the protection given to such images (and processes) via the system of Kimura.

As to claim 18,

A computer network based process as claimed according to claim 17 wherein according to the license agreement, the third party/licensor collects income in the form of license or royalty payments from licensees, according to predetermined parameters of the base images or merged images. [First 3 references do not explicitly teach these limitations (e.g. Carter, Morris, and Yokomizo).]

Clearly, as discussed in the rejection to claim 16 above, the third party does collect income from the user or individual who submitted the images to be processed under the system of Kimura. As taught in Ginter and discussed in the above rejection to claim 17, license payments and royalties are paid out on use of content as per license agreements as covered 0015-0025. Ginter teaches predetermined parameters or the payment for aspects thereof in (0161, 0211, 1912, 1936) for content, which would *prima facie* include images. Therefore, all the limitations are met as recited above. The motivation and combination of the parent claim are hereby incorporated via reference in their entirety.

As to claim 19,
A computer network based process as claimed according to claim 17 wherein the third party / licensor is able to accurately track individual merged images and the quantity of base images and/or merged images output for a particular operator/licensee. [First 3 references do not explicitly teach these limitations (e.g. Carter, Morris, and Yokomizo).]

Clearly, as discussed in the rejection to claims 16 and 17 above, particularly that of claim 16, reference Kimura teaches that for the user to get anything other than a thumbnail version of the image, they have to compensate the copyright owner, which would fulfill the recited limitations, since every use of the content would have to be paid for and pass through an external server for validation (e.g. the services of Morris and Yokomizo). Further, Ginter clearly teaches the ability to track the number of uses of an object (0404-0411) [tracking quantity of base images input would be *prima facie* obvious and a trivial modification, as it would simply require counting the number of files

submitted to the licensee for processing per run of the process for generating the mosaics]. Further, in 0404-0411 Ginter teaches the use of “meter” software that can monitor all the circumstances of use of a licensed piece of process, software, intellectual property, etc. that specifically meets all the limitations recited by applicant. The motivation and combination of claim 17 is hereby incorporated herein by reference in its entirety, in addition to the above-discussed motivation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the processes of Carter with the systems of Morris and Yokomizo for delivery and transmission purposes, along with the content management structures and business methods of Ginter and Kimura (the motivation and combination from claim 16 is hereby incorporated by reference), as the addition of the electronic rights protection and management as well as the business models of Ginter to those of Kimura would enable the third party to control the use and access to such material with the protective attributes of the VRE software, which would enhance the protection given to such images (and processes) via the system of Kimura.

Conclusion

Further, all the claims are not directed to statutory subject matter and fail to comply with 35 USC 101.

Claim 13 and its dependents fail to comply with 35 USC 112, second paragraph, for using exemplary language (e.g. “such as” “for example” as used in that claim).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Woods whose telephone number is 571-272-7775. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on 571-272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Woods

September 15, 2006


ULKA CHAUHAN
SUPERVISORY PATENT EXAMINER